

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.589 OF 2007
IN
CRIMINAL APPEAL NO.379 OF 2006**

Fakruddin @ Fakru Abdul Mohammed Sayyed ..Applicant.
Vs.

1. The State of Maharashtra
2. The General Bank Manager ..Respondents.

Mr.H.E.Mooman, adv. for the Applicant.
Mr.P.A.Pol, APP for the Respondent/State.

**CORAM : J.H.BHATIA, J.
DATE : OCTOBER 5, 2007.**

P.C.:

1. Heard the learned counsel for the Parties.

2. The applicant was original accused no.10 in Sessions Case No.50 of 2003 before the Additional Sessions Judge, Islampur. Dacoity had taken place in Rajarambapu Co-operative Bank Limited, Peth Branch, Kokrud at about 2.15 p.m. on 8-5-2003. In that incident dacoits had taken away an amount of Rs.1,30,000/- as well as gold ornaments worth more than Rs.42 lakhs. The present applicant was identified as one of the culprits by three witnesses during the evidence before the Court as well as during the test identification parade. According to the prosecution a weapon and vehicle, which were used in the commission of crime were also recovered from the present

applicant. After trial in all seven persons were convicted for the offence of dacoity. The present applicant was one of them. Taking into consideration, the nature of the offence and the evidence on record, I find that it is not a fit case to grant bail on merits.

3. The applicant also seeks bail on the ground that his father is suffering from cancer as well as T.B. for which he has produced necessary documents. Certificates produced from the Tata Memorial Hospital reveal that he needs surgery and post operative care as well as external radiation therapy. For whole of the treatment, cost is estimated to be Rs.65,000/-. Affidavit filed by Chandrakant Deshmukh Police Inspector reveals that his mother and brother can take care of his father. According to them, they are unable to give proper treatment because of financial scarcity but the applicant is also not in a position to provide any financial aid. Therefore, in my considered opinion, ailment of his father is not a ground for grant of bail to him. The learned APP Mr.Pol makes a statement that if the applicant makes an application for parole etc., the application shall be considered sympathetically by the jail authorities.

4. The learned counsel for the applicant contends that the accused is already in jail for four years and

there is no possibility of the matter being taken up for hearing within a short period of time taking into consideration the huge pendency of the matter. He contends that the Hon'ble Supreme Court in number of matters directed that if the matter can not be disposed off early, the bail may be granted to the accused . In my opinion if his appeal can not be decided till he completes half of the sentence, his bail application may be considered. Therefore, he may be permitted to file fresh application for bail if his appeal is not disposed off within one year from today.

5. With aforesaid observations, application stands rejected. However, if the appeal filed by the present appellant is not disposed off within one year from today, the applicant shall be at liberty to move fresh application for bail.

[J.H.BHATIA, J.]